

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARIA C., a minor by and	:	CIVIL ACTION
through her parent and natural	:	
guardian, IRIS NEREIDA CAMACHO,	:	
and IRIS NEREIDA CAMACHO	:	
	:	
	:	
v.	:	
	:	
THE SCHOOL DISTRICT OF	:	
PHILADELPHIA	:	NO. 02-4336

MEMORANDUM AND ORDER

Fullam, Sr. J.

May , 2004

Plaintiffs, Maria C. and her mother, Iris Nereida Camacho, sue the School District of Philadelphia for attorneys' fees and expenses, claiming that they are prevailing parties as the term is defined in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400-1485 ("I.D.E.A.").

Maria C. is a special education student in the Philadelphia School District. In 1997, Plaintiffs sought to enforce Maria C.'s individualized education program ("I.E.P.") through a due process hearing, but, before the due process hearing began, Plaintiffs and Defendant entered into a private settlement agreement. Similarly, in 1998 and 1999, the parties came to private agreements before scheduled due process hearings took place. In 2000, Plaintiffs filed a complaint with the Pennsylvania Bureau of Special Education. Treating the complaint as an I.D.E.A. appeal, the Bureau of Special Education found the School District in violation of the 1999 settlement agreement that had been approved by a due process hearing officer, and ordered

a multidisciplinary reevaluation, an I.E.P. team meeting and a revision of the I.E.P., the appointment of a case-manager, and a determination of whether compensatory education was appropriate. An I.E.P. meeting was held in 2000 pursuant to the order of the Bureau of Special Education. In 2001, the parties participated in a separate I.E.P. meeting. In 2002, a due process hearing was held. After the due process hearing was continued three times, it ended in an administrative consent decree in which substantially all Maria C.'s demands were met.

I.D.E.A. authorizes the award of attorneys' fees "to the parents of a child with a disability who is the prevailing party." *See* 20 U.S.C. § 1415(i)(3)(B) (2004). Attorneys' fees are available for parties who prevail at the administrative level. *See J.O. v. Orange Twp. Bd. of Educ.*, 287 F.3d 267, 273 (3d Cir. 2002); *Arons v. New Jersey Bd. Of Educ.*, 842 F.2d 58, 62 (3d Cir. 1988). Attorneys' fees relating to an I.E.P. meeting may be awarded only if the meeting is convened as a result of an administrative proceeding or judicial action. *See* 20 U.S.C. § 1415(i)(3)(D)(ii) (2004). Moreover, a party may not prevail by succeeding on the catalyst theory, defined as achieving the desired outcome because a lawsuit caused a voluntary change in the opposing party's conduct, or by reaching a satisfactory private settlement. *See Buckhannon Bd. & Care Home v. W. Va. Dep't of Health & Human Res.*, 532 U.S. 598, 604, n.7, 610 (2001); *John T. ex rel. Paul T. v. Delaware County*, 318 F.3d 545, 556-557 (3d Cir. 2003). In contrast, a party awarded a consent decree or its equivalent prevails. *See John T. ex rel. Paul T.*, 318 F.3d at 558.

Applying the principles above, this Court will award Plaintiff Iris Nereida Camacho, the parent of a child with a disability who is a prevailing party, fees and costs corresponding to the 14.45 hours her counsel spent litigating a complaint before the Pennsylvania Bureau of Special Education in 2000 and preparing for and attending the I.E.P. meeting ordered by the Bureau of

Special Education. She will also be awarded fees and expenses corresponding to the 70.72 hours of work relating to the due process proceedings in 2002. Specifically, Plaintiff Iris Nereida Camacho will be awarded \$3,829.25 (14.45 hours at \$265.00 per hour) in attorneys' fees for work done in 2000, \$20,332.00 (70.72 hours at \$287.50 per hour) in attorneys' fees for work done in 2002, and \$322.91 for related expenses, for a total of \$24,484.16.

An order follows.

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	:	
THE SCHOOL DISTRICT OF	:	
PHILADELPHIA	:	NO. 02-4336

ORDER

AND NOW, this day of May, 2004, upon consideration of Plaintiffs' Calculation of Hours Expended, Plaintiffs' Completed Record and Factual Narrative, Defendant's Response, Plaintiffs' Reply, Plaintiffs' Attorney's Updated Final Hours Expended on Behalf of Maria C., and Defendant's Objection to Plaintiffs' Reply and Supplemental Filings, IT IS ORDERED:

1. Pursuant to 20 U.S.C. § 1415(i)(3)(B), Plaintiff Iris Nereida Camacho is awarded attorneys' fees and costs in the sum of \$24,484.16.

BY THE COURT:

Fullam, Sr. J.